

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

LONGEVITY MEDICAL CLINIC, a
Washington Professional Limited Liability
Company,

Plaintiff,

v.

SIMA'S CLINIC, INC. dba LONGÉVITÉ
MEDICAL & COSMETIC CLINIC, a
Washington Corporation,

Defendant.

Civil Action No. 10-cv-768

COMPLAINT FOR TRADEMARK
INFRINGEMENT, FALSE DESIGNATION
OF ORIGIN AND UNFAIR
COMPETITION AND CONSUMER
PROTECTION ACT VIOLATION

JURY TRIAL REQUESTED

Plaintiff Longevity Medical Clinic^{PLLC} ("LMC") hereby alleges the following causes of
action against Defendant.

I. PARTIES

1. LMC is a Washington professional limited liability company having its principal
place of business at 9757 NE Juanita Drive, Suite 200, Kirkland, WA 98034.

2. Sima's Clinic, Inc. dba Longévité Medical & Cosmetic Clinic ("Sima's") is a
Washington corporation having places of business at 3138 E. Madison Street, Seattle, WA 98112
and 13317—NE 175th, Suite N, Woodinville, WA 98072. According to the Washington State
records, Sima's registered agent is Sima Rafii at 3138 E. Madison Street, Seattle, WA 98112.

II. JURISDICTION AND VENUE

3. This action arises under the trademark laws of the United States of America, 15 U.S.C. § 1051 *et seq.* Jurisdiction over the trademark infringement and false designation of origin and federal unfair competition claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338. Supplemental jurisdiction is conferred upon this Court over the remaining related state and common-law claim derived from a common nucleus of operative fact that form part of the same case or controversy. 28 U.S.C. § 1367(a).

4. This Court has personal jurisdiction over Sima's and venue is proper in the Western District of Washington because Sima's resides, does business, and can be found therein.

III. LMC'S TRADEMARK RIGHTS

5. LMC is the owner of intellectual property rights associated with the trademark LONGEVITY MEDICAL CLINIC and Design as used in association with medical therapy services and related nutritional and health supplements. LMC's trademark rights include U.S. federal trademark registration no. 3,298,814. LMC is also the owner of geographically based common law rights in the LONGEVITY MEDICAL CLINIC and Design trademark stemming from continuous and substantially exclusive use of the mark.

6. LMC markets, promotes and provides its products and services throughout the United States and the world in association with its LONGEVITY MEDICAL CLINIC and Design trade name and trademark, including at its www.longevitymedicalclinic.com website. For more than ten years, LMC has further promoted its products and services via radio and podcast broadcasts. LMC's promotion, advertising, and use of its trade name, trademarks and domain name serves to identify LMC's products and services, distinguish them from those of others, and identify LMC as the source of those products and services. As a result, the trade name, trademark and domain name have become valuable assets of LMC and a symbol of its goodwill to the general public. Moreover, LMC's use of its trademark and domain name has conditioned Internet users to find LMC and its goods and services through its website.

IV. SIMA'S WRONGFUL ACTIVITIES

7. Sima's has adopted, used and continues to use the substantially identical mark LONGÉVITÉ MEDICAL & COSMETIC CLINIC as a trade name, trademark in promotional materials and in website content and as the dominant part of the *longeviteclinic.com* domain name to advertise, promote, offer and/or provide products and services. Sima's use of the LONGÉVITÉ MEDICAL & COSMETIC CLINIC mark is confusingly similar to LMC's trademark, particularly given that both marks are used in association with the provision of products and services related to medical therapy services and related nutritional and health supplements. Sima's use of the substantially identical LONGÉVITÉ MEDICAL & COSMETIC CLINIC trade name, trademark and domain name in association with similar goods and services, particularly in the same channels of trade and in close proximity to LMC's business headquarters, creates a strong likelihood of confusion among customers and the general public.

8. On or about October 27, 2009, after learning of Sima's marketing and sales in the area, LMC demanded in writing that Sima's cease infringing use of the LONGÉVITÉ MEDICAL & COSMETIC CLINIC mark. Sima's refused, and to date has continued its infringing trade name, trademark and domain name use.

9. These acts of Sima's have caused and, unless restrained by this Court, will continue to cause serious and irreparable harm to LMC and to the goodwill associated with its trademark and Internet website. Moreover, Sima's has and will continue to unjustly benefit—at LMC's expense—from gains, profits and advances derived from the products sold and services provided in association with the infringing LONGÉVITÉ MEDICAL & COSMETIC CLINIC trade name, trademark and domain name.

10. Sima's has at all relevant times been aware of LMC's LONGEVITY MEDICAL CLINIC and Design trade name, trademark and broadcast media and Internet presence at its www.longevitymedicalclinic.com website. Sima's has no license from LMC, and has deliberately and willfully infringed LMC's trademark and engaged in unfair business practices.

11. LMC is entitled to control all use of the LONGEVITY MEDICAL CLINIC and Design trademark and confusingly similar marks in association with the provision of products and services related to medical therapy services and related nutritional and health supplements; to exclusively advertise and provide these products and services in association with the LONGEVITY MEDICAL CLINIC and Design trademark; to control the quality of products and services provided in association with the LONGEVITY MEDICAL CLINIC and Design trademark; and to have the LONGEVITY MEDICAL CLINIC and Design trademark or confusingly similar marks identify LMC as the sole source and origin of its products and services. Therefore, LMC's remedy at law is not adequate to compensate for the injury caused and threatened by Sima's infringement of LMC's trademark rights and unfair business practices.

V. CAUSES OF ACTION

COUNT I: TRADEMARK INFRINGEMENT

12. LMC realleges the preceding paragraphs of this complaint.

13. Sima's use, without consent, of the substantially identical LONGÉVITÉ MEDICAL & COSMETIC CLINIC mark, particularly in the same channels of trade and same geographic proximity, is likely to cause confusion or mistake or to deceive the public as to the source of these products and services. Sima's actions have been intentional and with actual knowledge of LMC's trademark rights.

14. Sima's actions constitute trademark infringement in violation of 15 U.S.C. § 1114.

COUNT II: FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION

15. LMC realleges the preceding paragraphs of this complaint.

16. Sima's use, without consent, of the substantially identical LONGÉVITÉ MEDICAL & COSMETIC CLINIC mark, particularly in the same channels of trade and same geographic proximity, is likely to cause confusion or mistake or to deceive the public as to the

1 source of these products and services. Sima's actions have been intentional and with actual
2 knowledge of LMC's trademark rights.

3 17. Sima's actions constitute false designation of origin and unfair competition in
4 violation of 15 U.S.C. § 1125.

5 **COUNT III: CONSUMER PROTECTION ACT VIOLATION**

6 18. LMC realleges the preceding paragraphs of this complaint.

7 19. By knowingly and intentionally using a confusingly similar mark to LMC's
8 LONGEVITY MEDICAL CLINIC and Design trademark and therefore confusing consumers as
9 to the source of products and services provided under that mark, Sima's actions constitute unfair
10 methods of competition and unfair deceptive acts and practices in the conduct of its trade or
11 business. Sima's actions have affected and continue to affect the public interest, and Sima's has
12 demonstrated its propensity for repetition of its actions by continued confusing use despite
13 written requests to cease such use. As a direct and causal result of Sima's unfair business
14 practices and unfair and deceptive acts, LMC has been damaged in an amount to be proven at
15 trial.

16 20. Sima's actions are in violation of the Washington State Consumer Protection Act,
17 R.C.W. 19.86.020.

18 **VI. PRAYER FOR RELIEF**

19 LMC requests the following alternative and cumulative relief:

- 20 1. Preliminary and permanent injunctions against the use of the mark LONGEVITY
21 MEDICAL CLINIC and Design, or any other marks confusingly similar thereto,
22 including without limitation LONGÉVITÉ MEDICAL & COSMETIC CLINIC,
23 as a service mark, trademark, trade name, domain name or part thereof alone or in
24 combination with other words, symbols, styles, titles or marks in connection with
the provision of medical therapy services and related nutritional and health
supplements;
- 25 2. An order that Sima's deliver up for destruction all products, printed material,
26 stationery, business forms, signs, advertisements, brochures, promotional
material, manuals, pamphlets, labels, packages, containers, and all other materials

bearing the mark LONGEVITY MEDICAL CLINIC and Design, or any derivative, colorable imitation, or confusingly similar marks, including without limitation LONGÉVITÉ MEDICAL & COSMETIC CLINIC, together with all means for making or reproducing the same, pursuant to 15 U.S.C. § 1118 and other applicable law;

3. An order that Sima's immediately assign or otherwise transfer to LMC ownership of all domain names incorporating the term "longevity" and "medical" or "clinic" or any domain name confusingly similar thereto, including without limitation the *longeviteclinic.com* domain name;
4. An award of damages sufficient to compensate LMC for all injury sustained as a result of Sima's wrongful activities, including wrongful profits of Sima's, as provided under applicable law;
5. Exemplary damages and all of LMC's litigation expenses, including reasonable attorneys' fees and costs, as provided under applicable law;
6. An assessment of prejudgment interest and costs; and
7. Such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 5th day of May, 2010.

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